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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,441	03/28/2001	Lalitha Agnihotri	US010107	2711
24737	7590	03/21/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			LAYE, JADE O	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/819,441	Applicant(s) AGNIHOTRI ET AL.	
	Examiner Jade O. Laye	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

- I. Applicant's amendments, dated 1/9/06, have been entered and made of record.

Response to Arguments

- II. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection. Accordingly, **THIS ACTION IS MADE FINAL.**

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- III. Claims 1, 2, 6-10, 14-16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Black et al* (US Pat. No. 5,774,591) in view of *Hendricks et al.* (US Pat. No. 5,798,785).

As to claim 1, *Black* discloses a facial recognition system, which alters the presentation of the screen based upon an analysis of predefined human interactions. When a user is exposed to the system display (i.e., first item), a camera (system acquisition system) captures the viewer's image. This image is analyzed by the expression recognition system. Based upon this analysis, the system determines whether the screen presentation should be altered (i.e., alternate item). (Col. 26, Ln. 50-67 thru Col. 27, Ln. 1-27 ; Col. 28, Ln. 11-16). However, *Black* fails to disclose whether the system is capable of displaying first and alternate media content selections.

However, within the same field of endeavor, *Hendricks* discloses a recommending system capable of suggesting media content (i.e., suggesting programs based upon genre/category, actors, etc.). (Col. 3, Ln. 5-20).

Moreover, the Examiner takes Official Notice that, at the time of Applicant's invention, automatically tuning to programs of interest to the user was notoriously well-known in this art. (as evidenced by *Harvey et al*, US Pat. No. 5,109,414 Col. 17, Ln. 40-60). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the modified systems of *Black* and *Hendricks* in order to provide a system capable of automatically displaying an alternate item based upon a user's dissatisfaction with the original media content in order to assist the user with program selection (i.e., media content selection).

Claims 8, 9, 16, 19, and 20 correspond to claim 1 and thus, each is analyzed and rejected as previously discussed. The examiner notes that claim 8 attempts to make a distinction between "analyzing" and "monitoring." But, any system (such as disclosed by *Black*) capable of analyzing information must also monitor that same information in order to store and analyze it.

The examiner also notes that claim 16 adds additional limitations directed to a memory device and processor. It is inherent that *Black*'s system contains a memory device (for storing predefined human interactions) and processor (specifically disclosed as image acquisition system and expression recognition system).

As to claim 6, *Black* further discloses his system is capable of analyzing facial expressions of a user. (Col. 26, Ln. 50-67). Accordingly, the combined system of *Black* and *Hendricks* disclose all limitations of Claim 6.

Claim 14 corresponds to claim 6 and is analyzed and rejected as previously discussed.

As to Claim 7, *Hendricks* further discloses a content recommender. (Col. 2, Ln. 38-47). Accordingly, the combined system of *Black* and *Hendricks* disclose all limitations of Claim 7.

Claim 15 corresponds to claim 7 and is analyzed and rejected as previously discussed.

As to Claim 21, *Hendricks* further discloses his system is capable of recommending programs based upon the viewing preferences of the user. (Col. 2, Ln. 62-Col. 3, Ln. 27; Col. 28, Ln. 64-Col. 29, Ln. 25). Accordingly, the combined system of *Black* and *Hendricks* disclose all limitations of Claim 21.

Claim 22 corresponds to Claim 21. Thus, it is analyzed and rejected as previously discussed.

As to Claim 23, the Examiner takes Official Notice that, at the time of Applicant's invention, providing user-customized programming on various channels (i.e., virtual channels) was notoriously well-known in this art. (as evidenced by *Herz et al*, US Pat. No. 5,758,257 Col. 4, Ln. 18-31). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to further modify the combined systems of *Black* and *Hendricks* in order to provide a system which provides "virtual channels" to users.

As to Claim 24, *Hendricks* further teaches the system is capable of ranking programming based upon a degree of correlation with the user's profile. (Col. 33, Ln. 4-13). This, combined with the teachings of the cited portions used to reject Claim 1, would result in a system, which automatically tunes to the next ranked program in the event of user dissatisfaction. Accordingly, the combined system of *Black* and *Hendricks* disclose all limitations of Claim 24.

IV. Claims 4, 5, 12, 13, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Black et al* in view of *Hendricks et al* as discussed under Claim 1, and further in view of *Chino et al.* (US Pat. No. 6,118,888).

Claim 4 recites the method of claim 1, wherein said predefined negative behavior includes auditory commands. As discussed above under paragraph 1, the combined system of *Black* and *Hendricks* disclose all limitations of claim 1, but fails to specifically disclose the limitations recited in claim 4. However, within the same field of endeavor, *Chino* discloses a system capable of interacting with a user via audio, character, and image information. (Abstract). More specifically, the system is capable of reacting to a user's speech. (Col. 1, Ln. 11-61). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of *Black*, *Hendricks*, and *Chino* in order to provide a system capable of reacting to a user's verbal dissatisfaction with the present display.

Claim 12 corresponds to claim 4 and is analyzed and rejected as previously discussed.

Claim 5 recites the method of claim 1, wherein said predefined negative behavior includes gestural commands. As discussed under paragraph 1, the combined system of *Black* and *Hendricks* disclose all limitations of claim 1, and *Black* further teaches the system is capable of analyzing a user's head gestures. (Col. 1, Ln. 15-38). However, *Chino* more broadly discloses his system is capable of analyzing not only head gestures, but bodily gestures as well. (Col. 1. Ln. 11-61). Accordingly, the combined systems of *Black*, *Hendricks*, and *Chino* disclose all limitations of Claim 5.

Claim 13 corresponds to claim 5 and is analyzed and rejected as previously discussed.

Claim 17 recites a system for selecting an item for a user, comprising:

- a. an audio and video device focused on a user;
- b. a memory for storing computer readable code and said viewer profile; and
- c. a processor operatively coupled to said memory, said processor configured to:
(perform limitations recited in claim 8)

As discussed above, the combined systems of *Black* and *Hendricks* disclose all limitations of claim 8 and the limitation of element “b”, so those will not be addressed here. As for element “a”, *Black* discloses his system is capable of tracking/analyzing/monitoring a user’s behavior via the use of a camera (i.e., video device), or image acquisition system. (Col. Ln. 26, Ln. 56-61). But, *Black* fails to disclose whether his system can be used in conjunction with an audio device. However, within the same field of endeavor, Chino discloses his system is capable of reacting to a user’s speech; therefore it is inherent that an audio device is present within the system. (Col. 1, Ln. 11-61). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant’s invention to combine the systems of *Black*, *Hendricks*, and Chino in order to provide a system capable of reacting to a user’s behavior via the use of audio and video inputs.

Claim 18 recites the system of claim 17, wherein said processor is further configured to define a plurality of predefined negative behavior suggesting that said user does not like said media content. As discussed above, the combined teachings of *Black*, *Hendricks*, and Chino contain all limitations of claim 17, and *Black* further discloses his system is capable of analyzing predefined negative behaviors (i.e., predefined human interactions). (Col. 26, Ln. 61-63). Accordingly, the combined systems of *Black*, *Hendricks*, and Chino disclose all limitations of Claim 18.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

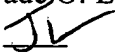
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

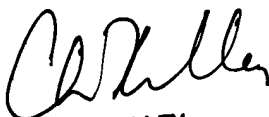
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Examiner: Jade O. Laye

Initials: 

March 10, 2006.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600